

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN J. TORPEY, JOHN ENRIGHT  
CHRISTOPHER SHEERAN, PATRICK DOLAN,  
JR., PATRICK NORTON, VINCENT J.  
CURRAN, JR., ROBERT EGAN, JR., WILLIAM  
WANGERMAN, RAYMOND DEAN, JR.,  
JOHN O'CONNELL, JAMES ELDER,  
RAYMOND HOPKINS, EDWARD ENGLISH,  
ROCCO ABBATE, ARTHUR KLANSKY,  
JOHN DIERKS, JEFF PORRELLO, RICHARD  
THOMPSON, TERENCE FARRELL, DONALD  
BURNS JOHN KRITIS, and WILLIAM  
McMORROW, SR., as TRUSTEES OF THE  
STEAMFITTERS LOCAL 638 PENSION FUND,  
SUPPLEMENTAL RETIREMENT FUND,  
SECURITY BENEFIT FUND, VACATION FUND,  
AND EDUCATION FUND, and ENTERPRISE  
ASSOCIATION OF PIPE FITTERS AND  
APPRENTICES OF GREATER NEW YORK,  
NASSAU AND SUFFOLK COUNTIES, AND  
VICINITY LOCAL 638 OF THE UNITED  
ASSOCIATION OF JOURNEYMEN AND  
APPRENTICES OF THE PLUMBING AND PIPE  
FITTING INDUSTRY OF THE UNITED STATES  
AND CANADA, AFL-CIO

Plaintiffs,

-against-

TM & M MECHANICAL CORPORATION,  
TM & M SPRINKLER CORP., and TRI-STATE  
FIRE PROTECTION CORPORATION,

Defendants.  
-----X

Civil Action No. 08 CIV 4381

(RMB)  
(FM)

ANSWER, AFFIRMATIVE  
DEFENSES AND JURY DEMAND  
OF DEFENDANT, TM & M  
MECHANICAL CORPORATION

ECF FILING

Defendant, TM & M MECHANICAL CORPORATION, ("TM & M Mechanical"), through its

attorneys, **DE LUCA & FORSTER**, by way of answer to the complaint herein, respectfully shows and alleges:

**JURISDICTION AND VENUE**

1. Denies the allegations contained in paragraph "1" of the complaint except, upon information and belief, admits the allegations as to this defendant..
2. Denies the allegations contained in paragraph "2" of the complaint except, upon information and belief, admits the allegations as to this defendant..

**NATURE OF THE ACTION**

3. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "3" of the complaint.
4. Admits, upon information and belief, the allegations contained in paragraph "4" of the complaint.
5. Admits the allegations contained in paragraph "5" of the complaint.
6. Denies the allegations contained in paragraph "6" of the complaint.
7. Denies the allegations contained in paragraph "7" of the complaint.
8. Denies the allegations contained in paragraph "8" of the complaint except admits that some of its employees are members of Local 638.
9. Denies the allegations contained in paragraph "9" of the complaint.
10. Denies the allegations contained in paragraph "10" of the complaint.

**ANSWERING THE FIRST CAUSE OF ACTION**

11. TM &M Mechanical repeats its responses to the allegations contained in paragraphs "1" through "10" of the complaint as if set forth herein at length.

12. Denies the allegations contained in paragraph "12" of the complaint except admits that TM & M Mechanical has entered into an agreement with Local 638 and begs leave to refer to the terms and conditions of the said agreement for its true meaning and intent.

13. Denies the allegations contained in paragraph "13" of the complaint except admits that TM & M Mechanical entered into a written agreement with Local 638 and begs leave to refer to the terms and conditions of the said agreement for its true meaning and intent.

14. Denies the allegations contained in paragraph "14" of the complaint except admits that TM & M Mechanical entered into a written agreement with Local 638 and begs leave to refer to the terms and conditions of the said agreement for its true meaning and intent.

15. Denies the allegations contained in paragraph "15" of the complaint.

16. Denies the allegations contained in paragraph "16" of the complaint.

17. Denies the allegations contained in paragraph "17" of the complaint.

18. Denies the allegations contained in paragraph "18" of the complaint.

#### **ANSWERING THE SECOND CAUSE OF ACTION**

19. TM & M Mechanical repeats its responses to the allegations contained in paragraphs "1" through "18" of the complaint as if set forth herein at length.

20. Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "20" of the complaint.

21. Denies the allegations contained in paragraph "21" of the complaint except admits that TM & M Mechanical entered into a written agreement with Local 638 and begs leave to refer to the contents of the said agreement for its true meaning and intent.

22. Denies the allegations contained in paragraph "22" of the complaint except admits that

TM &M Mechanical entered into a written agreement with Local 638 and begs leave to refer to the contents of the said agreement for its true meaning and intent.

23. Denies the allegations contained in paragraph "23" of the complaint.

24. Denies the allegations contained in paragraph "24" of the complaint.

**ANSWERING THE THIRD CAUSE OF ACTION**

25. TM &M Mechanical repeats its responses to the allegations contained in paragraphs "1" through "24" of the complaint as if set forth herein at length.

26. Denies the allegations contained in paragraph "26" of the complaint.

27. Denies the allegations contained in paragraph "27" of the complaint.

28. Denies the allegations contained in paragraph "28" of the complaint.

**ANSWERING THE FOURTH CAUSE OF ACTION**

29. TM &M Mechanical repeats its responses to the allegations contained in paragraphs "1" through "28" of the complaint as if set forth herein at length.

30. Denies the allegations contained in paragraph "30" of the complaint.

**WHEREFORE**, defendant, **TM & M MECHANICAL CORPORATION** demands judgment dismissing the complaint together with costs, disbursements, attorneys fees and such other and further relief which the Court deems just and proper.

**JURY DEMAND**

This defendant demands trial by jury of all issues so triable.

Dated: June 20, 2008  
Valatie New York

**DE LUCA & FORSTER**

A handwritten signature in black ink, appearing to read "Thomas G. De Luca", is written over a horizontal line.

Thomas G. De Luca (TDL-6312)  
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